

BOARD OF APPEALS CASE NO. 4925

BEFORE THE

APPLICANT: Howard Wright

ZONING HEARING EXAMINER

**REQUEST: Variance to permit an
existing pool, deck and shed within the
required front yard setback;
404 Montgomery Court, Forest Hill**

OF HARFORD COUNTY

HEARING DATE: July 7, 1999

Hearing Advertised

Aegis: 5/26/99 & 6/2/99

Record: 5/28/99 & 6/4/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Howard Wright, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(4) of the Harford County Code, to allow an existing swimming pool, deck and shed within the required front yard setback in an R2 District.

The subject parcel is located at 404 Montgomery Court in the Third Election District. The parcel is identified as Parcel No. 649, in Grid 2-A, on Tax Map 41. The parcel contains .406 acres, more or less, all of which is zoned R2.

Mr. Howard Wright appeared and testified the subject parcel is improved by a single-family dwelling, a shed with dimensions of 12 feet by 8 feet, and an above-ground swimming pool, which is 4 feet deep and 24 feet in diameter. The witness said that the pool is located 48 feet from the property line at the closest point and the shed is 15 feet from the common property line with the Bel Air Bypass. The Applicant said the subject parcel is unique because the dwelling faces Montgomery Court, but the rear of his property backs up to the Bel Air Bypass, which requires him to maintain two front yard setbacks. The Applicant said that the parcel has drainage and utility easements which also contribute to the uniqueness of the parcel. The Applicant said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because he has owned the property for 10 years and there has been no complaints about the location of the accessory structures.

Case No. 4925 - Howard Wright

The Staff Report of the Department of Planning and Zoning recommended conditional approval and provides:

"The subject property has frontage on two roads and is subject to two front yard setbacks. The property has an irregular configuration, along with a 35 foot setback from Montgomery Court, a 60 foot setback from Route 1, and a 20 foot drainage and utility easement along the property line; therefore, the usable on the lot is significantly reduced."

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(4) of the Harford County Code, which provides:

"No accessory use or structure shall be established within the required front yard, except agricultural, signs, fences, walls or parking area and projections or garages as specified in Section 267-23(C), Exceptions and modifications to minimum yard requirements."

The uncontradicted testimony of the Applicant was that the subject property is unique because the Applicant is required to maintain a setback from Montgomery Court, as well as a setback from the Bel Air Bypass, which abuts the property to the rear. The Applicant also indicated that the property is incumbered by utility and drainage easements, which is corroborated by the Staff Report. Additionally, the Staff indicates that the lot has an irregular shape.

The evidence further indicates that the accessory uses have been on the parcel for 10 years without complaint and, therefore, should not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variances be approved for the reasons stated by the Applicant in his testimony. The variances shall be subject to the condition that the Applicant obtain all necessary permits and inspections for the swimming pool, deck and shed.

Date AUGUST 5, 1999



L. A. Hinderhofer
Zoning Hearing Examiner